

FILED '06 SEP 06 14:32 USDC-ORN

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

LEE DACHTLER,)	
)	Civ. No. 05-6177-CO
Plaintiff,)	
)	
v.)	
)	
JO ANNE B. BARNHART,)	ORDER
Commissioner of Social)	
Security)	
)	
Defendant.)	
_____)	

PANNER, District Judge:

Magistrate Judge John P. Cooney filed Findings and Recommendation, and the matter is now before this court. See 28 U.S.C. § 636(b)(1)(B), Fed. R. Civ. P. 72(b). Although no objections have been timely filed, this court reviews the legal principles *de novo*. See Lorin Corp. v Goto & Co., Ltd., 700 F.2d 1202, 1206 (9th Cir. 1983). I adopt Judge Cooney's Findings and Recommendation with a modification.

DISCUSSION

In this action for Social Security disability benefits, the parties agree that the ALJ erred in denying benefits. The only issue is whether to remand for further administrative proceedings or to remand for an immediate award of benefits. The court has discretion in deciding this issue. Harman v. Apfel, 211 F.3d 1172, 1178 (9th Cir. 2000). Remand for an award of benefits is appropriate when "no useful purpose would be served by further administrative proceedings" or when the record is fully developed and the evidence does not support the Commissioner's decision. Rodriguez v. Bowen, 876 F.2d 759, 763 (9th Cir. 1989).

Here, I conclude that the record as it now stands is sufficient, so no further proceedings are required. It is undisputed that the ALJ improperly disregarded the opinion of plaintiff's treating physician. More importantly, it is also undisputed that the ALJ failed to give adequate reasons for disregarding the conclusions of the Board of Veterans' Appeals that plaintiff's post-traumatic stress disorder (PTSD) was severe enough to prevent him from engaging in substantial gainful employment and that plaintiff's use of drugs and alcohol was associated with his PTSD.

Because the VA's process for determining disability is very similar to the Social Security disability process, the ALJ was required to give "great weight" to the VA's conclusions. McCartey v. Massanari, 298 F.3d 1072, 1076 (9th Cir. 2002). I conclude that here, as in McCartey, "The record is fully developed and,

giving great weight to the VA disability rating, a finding of disability is clearly required." 298 F.3d at 1077.

CONCLUSION

Magistrate Judge Cooney's Findings and Recommendation (#27) are adopted except the Commissioner's motion to remand (#22) is denied and the Commissioner's final decision is reversed and remanded for an immediate award of benefits pursuant to sentence four of 42 U.S.C. § 405(g).

IT IS SO ORDERED.

DATED this 6 day of ~~August~~ ^{Sept.}, 2006.

A handwritten signature in black ink, reading "Owen M. Panner", written over a horizontal line.

OWEN M. PANNER
U.S. DISTRICT COURT JUDGE